

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
U.S. DISTRICT COURT
DISTRICT OF NEW MEXICO

2018 JUL 23 PM 3:03

CLERK-LAS CRUCES

DAVALOUS JAMON BROWN,
Plaintiff,

V.

CV 17-944 JB/JHR

LAS CRUCES POLICE DEPARTMENT, CITY OF;
DONA ANA COUNTY SHERIFF DEPARTMENT;
DONA ANA COUNTY DETENTION CENTER; et al;
Defendants.

**PLAINTIFF'S MOTION TO SHOW CAUSE AND FOR EXTENSION OF TIME TO SERVE AND
SHOW PROCESS OF SERVICE ON DEFENDANT**

Plaintiff; Davalous Jamon Brown; pro se', respectfully presents this MOTION TO SHOW CAUSE AND FOR EXTENSION OF TIME TO SERVE AND SHOW PROCESS OF SERVICE ON DEFENDANT. As grounds for this motion, the movant states the following;

1. The plaintiff Davalous Jamon Brown; pro se'; filed this original lawsuit complaint in the First Judicial District Court for the District of New Mexico on or about the 12th day of July, 2016... thereafter this case was then reassigned and refiled within the United States District Court by opposing Counsel, in which this Court possess jurisdiction over the matter.
2. The plaintiff has exercise due diligence during the 21-day court granted deadline period, where he has made efforts to locate the missing Defendant by contacting the Dona Ana County Detention Facility administration office at 1850 Copper Loop, on two different occasions requesting Chris Barela's forwarding address, however the Plaintiff was referred by the detention center to contact the County office located at 845 North Motel Boulevard, where the Plaintiff also inquired with the county office staff in the attempts to locate a current or forwarding address for Chris Barela, from his two last known place of employment, both located in the county of Dona Ana, Las Cruces New Mexico, to no prevail at this time, however still diligently seeking.
3. The Plaintiff asserts that the Defendant; Chris Barela is a liable, vital and responsible involved party to the suit for his personal knowledge and wanton and malicious behavior and his direct or indirect commands and involvement with the intentional denial of proper and adequate medical care for the Plaintiff's serious bodily injuries made by the unlawful and excessive use of force discharge of the Officer's; AR-15 gunshot -open wound injuries, in addition to the Plaintiff's torn and ripped flesh injuries, suffered from a K-9 police dogs inflicted dog bite wounds, along with the

Plaintiff's doctor orders directed towards the detention center's order to provide the Plaintiff with necessary and greatly needed physical and rehabilitation therapy, however, ignored and mentally dismissed by Chris Barela's personal wanton involvement and malice behavior, in addition to his unlawful orders and commands to his staff to ignore the Plaintiff's medical request and grievances for the 24 months while the Plaintiff was illegally detained for such false charges averred within the indictment attributed as a result of an illegal and false arrest and false imprisonment within the Dona Ana County Detention Center that were in fact unwarranted against the Plaintiff, whom now suffers permanent and prolonged physical and damages along with ongoing mental and physiological pain and suffering damages and injuries to the Defendant, as a result of the Defendant's actions, inactions or omission from the Defendant's neglected responsibilities and his abuse of power towards the confined plaintiff... in addition to the Defendant's unlawful and intentional acts, inactions and omission in which violated the Plaintiff's fundamental and constitutional rights to be free from cruel and unusual punishment, along with his rights to substantive and procedural Due Process, as guaranteed in the United States and the New Mexico constitution, in which gave rise to this suit.

4. The Plaintiff asserts that as a result of the Defendant's wanton and intentional denial of proper adequate medical care along with the denial of proper medical physical and rehabilitation treatment access for the Plaintiff while under acting jail administrator; Chris Barela; watch and tenure during the Plaintiff's period of incarcerated detention at the Dona Ana County Detention Center... the Defendant is negligent and liable for the Plaintiff's now and prolonged permanent physical, mental and emotional damages, showing this Honorable Court why the claims raised in the Plaintiff's petition and complaint against Defendant; Chris Barela; should not be dismissed.
5. Furthermore, the Plaintiff asserts the defendant has been arrested on a several occasions for fraud, embezzlement, assault on a police officer and most recently for marijuana possession, where the Plaintiff effectuated proper service of summons and complaint on the Defendant during the State Court proceedings and properly filed and showed proof of service to the First Judicial District Court upon Chris Barela prior to the signed and stamped certified mail receipt returned on or about the 28th day of August, 2017 addressed to the Defendant at the Dona ana County Detention Center... due to the fact that although the Defendant was placed on indefinite leave on or about the 14th day of July, 2017... the Defendant was placed on "Paid Administrative Leave" up until county manager's letter asking for the Defendant's voluntary resignation... in which the Defendant agreed upon and enter his formal letter of resignation on or about the 30th day of August, 2017... where the Defendant was given complete access to

his personal belongings in addition to his mail, including the Plaintiff's service of summons along with the complaint, where the Defendant has been provided "adequate notice" by the Plaintiff, and service of process was perfected prior to removal. (See Exhibits A.-C.)

6. Moreover, the Plaintiff asserts that the Defendant has ties to the Las Cruces and the Santa Fe, New Mexico areas in which the Plaintiff has initiated an investigation into the Defendant's residency or employment current address and whereabouts, so as to effectuate another service of process upon the Defendant within a reasonable and timely manner, if the court deems fit upon determination and finding of the Plaintiff's motion to show cause.
7. The Plaintiff asserts that the Defendant was arrested at least on one occasion at his place of residency and that the Plaintiff at this time is awaiting requested Third Judicial Magistrate Court documents along with other requested Las Cruces, New Mexico City and County Government agencies public information records documentations that are necessary for the Plaintiff to narrow down the Defendant's current mailing address to provide to the court in a requested reasonable amount of time, to serve summons and initiate service of process upon the Defendant within the United States District Court, where the Plaintiff respectfully request that this Honorable Court grant a twenty one (21) day extension to complete the investigation and commence service of process pursuant to Rule 4 of the Federal Rules of Civil Procedures. (See Exhibit D.)

WHEREFORE, The Plaintiff respectfully prays that this Honorable Court GRANT PLAINTIFFS MOTION TO SHOW CAUSE AND FOR EXTENSION OF TIME TO SERVE AND SHOW PROCESS OF SERVICE ON DEFENDANT, as the court deems fit and proper.

Respectfully Submitted,

Davalous Brown

Davalous Brown # 80798

N.E.N.M.D.F.

185 Dr. Michael Jenkins Rd.

Clayton, New Mexico 88415

UNSWORN DECLARATION UNDER PENALTY OF PERJURY

I, **DAVALOUS BROWN**, declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S. Code Section 1746 and was mailed to the following parties and deposited within the New Mexico Corrections Department United States Post Office Mailbox inner- mail penitentiary system mailbox on the 14th day of July, 2018.

Date: July 14, 2018

Davalous Brown

Davalous Brown

City Attorney,
Roberto Cabello
P.O. Box 20000
Las Cruces, NM 88004

Dona Ana County Attorney,
Damian Martinez
P.O. Box 2699
Las Cruces, NM 88004

(EXHIBIT A)

Crime

Dona Ana County jail administrator charged, allegedly bought marijuana from police informant

Posted: July 14, 2017 04:30 PM MDT

Updated: September 05, 2017 05:22 PM MDT



Chris Barela, File Photo

LAS CRUCES, New Mexico - Undercover agents charged Christopher Barela, the Dona Ana County jail administrator, with four counts of "possession of marijuana over one ounce, but less than eight ounces."

Barela told ABC-7's New Mexico Mobile Newsroom he had no comment on the charges. Dona Ana County Spokesperson Jess Williams told ABC-7 "Barela has been placed in indefinite administrative leave" with pay.

Court documents obtained by ABC-7 state two narcotic agents met with an informant on April 24, 2017. The informant told the agents Barela was allegedly involved in the purchase of marijuana.

The informant told the agents Barela has been buying marijuana in increments of \$40 dollars, and sometimes in increments of \$100, "approximately five to ten days apart on a consistent basis for approximately the past two years," the document states.

The agents obtained Facebook messenger data "consistent with the information provided by the confidential source ... and were able to determine the public name on the account identified in Facebook messenger was Kris Barela and had an associated profile picture of a person identified as Christopher Barela," the document

Documents reveal Barela allegedly used code words like "Hatch Green Chili" for marijuana.

Investigators set up a surveillance operation and allegedly witnessed Barela purchasing marijuana from the informant on May 31, 2017 and June 14, 2017.

On both occasions, Barela allegedly bought 30 grams of marijuana for \$40, documents state.

ADVERTISING

(EXHIBIT B)

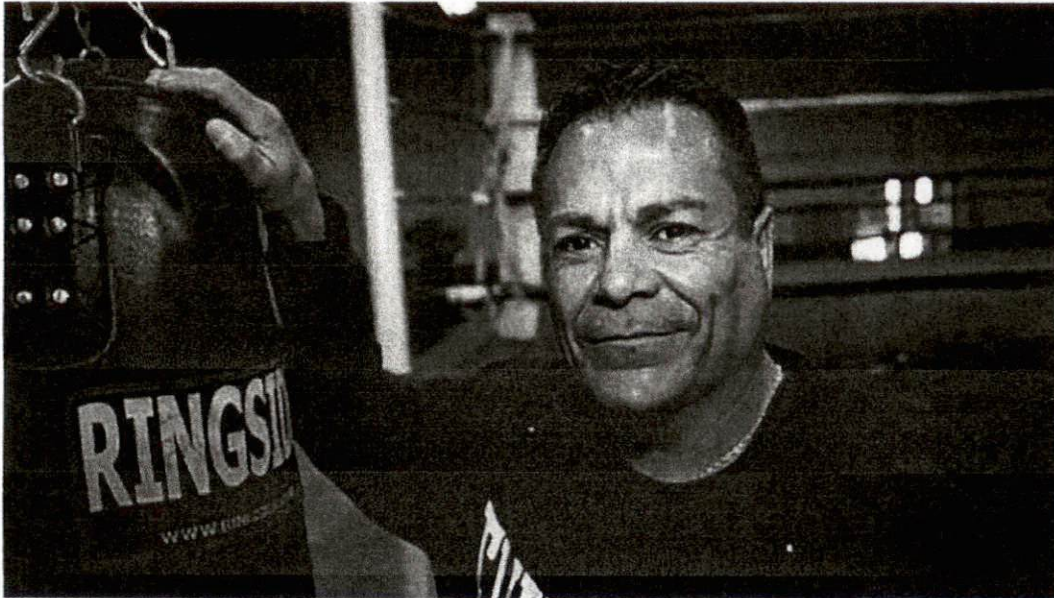
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Dona Ana County jail director resigns under fire



Chris Barela at the Las Cruces Police Athletic League Gym, April 8, 2016. | Photo: Photo courtesy Jett Loe / Las Cruces Sun-News

The Associated Press

September 07, 2017 08:00 AM

LAS CRUCES, N.M. (AP) - The longtime director of the Dona Ana County Detention center has resigned as he faced marijuana possession charges and a move to fire him.

The Las Cruces Sun-News reported Wednesday that Chris Barela resigned after an administrative hearing where he was contesting a move to fire him.

Barela has pleaded not guilty to four misdemeanor marijuana possession charges and has a court date later this month. Local narcotics detectives launched an investigation in April after receiving a tip that Barela had regularly been buying marijuana. Detectives then set up a sting and Barela allegedly purchased pot from undercover operatives.

Barela told the Sun-News he resigned under "eminent threat of termination" after being told the hearing officer would order him fired.

Barela has overseen the county jail since 2005.

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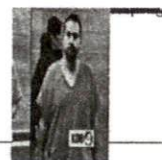
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Created: September 07, 2017 07:58 AM

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Trading with He could have been saved by
the new anti-bribe law.



(1)



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(EXHIBIT C)

Doña Ana County jail director Barela charged with marijuana possession

Carlos Andres López, Las Cruces Sun-News Published 2:46 p.m. MT July 14, 2017 | Updated 5:00 p.m. MT July 14, 2017



(Photo: Jett Loe / Sun-News)

LAS CRUCES - Doña Ana County Detention Center Director Christopher Barela placed on leave Friday after he was charged with purchasing marijuana from undercover sources on four separate occasions earlier this year, according to court records obtained by the Sun-News.

Barela, 54, who has been the jail's director since December 2005, was charged in a criminal complaint with four counts of marijuana possession, records show.

The misdemeanor drug charges come more than a year and a half since Barela was arrested by sheriff's detectives on fraud and embezzlement charges in a case that was eventually dismissed for lack of evidence.

Unlike the earlier case, a warrant for Barela's arrest was not issued in the drug case. Instead, a summons ordering Barela to appear in Doña Ana County Magistrate Court will likely be issued at a later date.

"I'm surprised by what's going on," Barela told the Sun-News on Friday. He declined to comment further but added that he first learned of the charges on Friday morning. He is being represented by Las Cruces attorney Michael Stout.

STORY FROM
TRUTHFINDER

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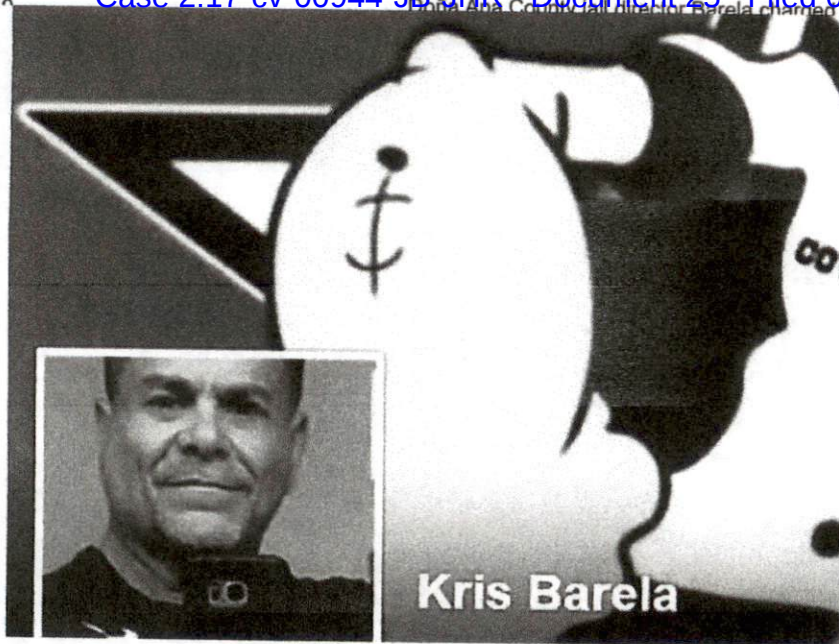
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A police affidavit filed in support of the criminal complaint revealed that Metro Narcotics investigators in April were tipped off to allegations that Barela had been purchasing marijuana every five to 10 days "on a consistent basis" for about two years.

A Look Back: [Jail director threatens to sue county commissioner](http://story/news/local/2017/07/04/jail-director-threatens-sue-county-commissioner/449135001/) (/story/news/local/2017/07/04/jail-director-threatens-sue-county-commissioner/449135001/)

The allegations came from two confidential sources. Their names were not included in the affidavit.

The investigators then discovered information on a cellphone linking Barela to a Facebook Messenger account that had been used to facilitate marijuana purchases, the affidavit states. The public name on the account was "Kris Barela," and the associated profile picture depicted an image of the jail director, according to the affidavit.



An affidavit notes a person using a Facebook account titled "Kris Barela" with an image of the jail director Christopher Barela used Facebook Messenger to to facilitate marijuana purchases. (Photo: Courtesy)

Barela had allegedly used code words such as "Hatch Green Chile" for marijuana, and had inquired about prices and pick-up times.

Investigators received court approval on April 27 to carry out reverse-transaction operations with laboratory-tested marijuana designated for investigative purposes.

On May 10, investigators conducted the first of four reverse transactions with Barela, according to the affidavit. Barela, the affidavit states, arrived at a "preset location" in a silver Lexus and purchased 30 grams of marijuana for \$40 from a confidential source.

Barela allegedly made similar purchases on May 18, May 31 and June 14, according to the affidavit. In total, Barela allegedly purchased about 120 grams of marijuana during the four transactions.

More: [State: No medical marijuana for opiate addicts, Alzheimer's patients \(/story/news/2017/06/15/state-no-medical-marijuana-opiate-addicts-alzheimers-patients/399529001/\)](#)

[Medical marijuana a booming industry in NM \(/story/news/local/new-mexico/2017/05/15/medical-marijuana-booming-industry-nm/101729264/\)](#)

When reached for comment on Friday, county spokesman Jess Williams said Barela's direct supervisor, Interim County Manager Chuck McMahon, was not aware of the drug charges and couldn't otherwise comment because "this would be a personnel matter." The detention center is operated by the county government.

But Williams said Barela had been placed on "indefinite" administrative leave around 4:30 p.m. Friday.

During his time as jail director, Barela has had previous brushes with the law. He was the target of a fraud investigation by the sheriff's office in 2015 that culminated [with his arrest \(/story/news/2015/12/08/sheriff-confirms-detention-center-director-arrested/76978880/\)](#) on Dec. 8, 2015. And he was arrested in February 2007 on charges that he assaulted a Las Cruces police officer, according to Sun-News archives.

Barela's 2015 arrest sparked months of tumult in county government and legal battles between county management and Sheriff Enrique "Kiki" Vigil, who temporarily assumed control of the jail after Barela's highly-publicized arrest. A judge later ruled that Vigil had no right to run the jail.

Vigil, who was in his first year as sheriff, announced Barela's arrest during a county commission meeting and staged two news conferences. The second conference turned into a clash of officials when then County Manager Julia Brown delivered a temporary restraining order to Vigil, ordering his deputies to vacate the jail grounds.

Read: [Audit: Federal grant funds tapped for medical marijuana \(/story/news/local/new-mexico/2017/04/19/audit-federal-grant-funds-tapped-medical-marijuana/100663052/\)](#)

Meanwhile, Barela, who was arrested around 6 a.m. at his home, was transported to Lovington, in southeastern New Mexico, and booked into the Lea County Detention Center. He had been charged with fraud and embezzlement over \$20,000, and other charges.

But the sheriff's case against Barela quickly unraveled. The investigation, led by then Detective Ken Roberts, who is now undersheriff, took more than six months to complete, and resulted in some 7,000 pages of documents.

Barela had been accused of misusing — but not pocketing — thousands of dollars from the jail's inmate welfare fund over a five-year period, according to court documents. But the fraud and embezzlement charges that had been filed against him were dismissed within months for lack of evidence.

And Barela, who had been placed on paid leave at the time of his arrest, was back in charge of the detention center by April 2016, earning an annual salary of about \$108,000. He threatened legal action against the county over his arrest but settled his claims (</story/news/2016/08/09/county-agrees-pay-barela-200k-claims-over-arrest/88498596/>) for \$201,000 in August 2016.

Barela's legal threats have continued this year. Last month, he filed notice with the county that he intends to sue District 5 Commissioner John Vasquez over allegations of abuse of power, libel, slander and defamation of character.

Carlos Andres López can be reached 575-541-5453, carlopez@lcsun-news.com (<mailto:carlopez@lcsun-news.com>) or [@carlopez_los](http://twitter.com/carlopez_los) (http://twitter.com/carlopez_los) on Twitter.

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New Mexico Courts (EXHIBIT D)

Case Lookup

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Case Detail

State of New Mexico v. Christopher Barela

CASE DETAIL			
CASE NUMBER	CURRENT JUDGE	FILING DATE	COURT
M-14-MR-201701242	Jacquez, Richard M.	07/14/2017	LAS CRUCES MAGISTRATE

PARTIES TO THIS CASE			
PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	Defendant	1	BARELA CHRISTOPHER
			ATTORNEY: STOUT MICHAEL L.
OF	Officer	1	RIOS LUIS OFC
P	Plaintiff	1	STATE OF NEW MEXICO
			ATTORNEY: MEDINA TOMAS A.

CRIMINAL CHARGE DETAIL										
PARTY	COUNT	SEQ #	STATUTE	CHARGE	CLASS	CHARGE DATE	CIT #	PLEA	DISPOSITION	DISP DATE
D 1	1	5	30-31-23(A)	Possession of Marijuana or Synthetic Cannabinoids (1-8 oz.)	M	05/10/2017		No Contest	Conditional Discharge, Dismissed	07/10/2018
D 1	2	3	30-31-23(A)	Possession of Marijuana or Synthetic Cannabinoids (1-8 oz.)	M	05/18/2017		Not Guilty	Dismissed by Prosecutor Per Plea Agreement	06/13/2018
D 1	3	3	30-31-23(A)	Possession of Marijuana or Synthetic Cannabinoids (1-8 oz.)	M	05/31/2017		Not Guilty	Dismissed by Prosecutor Per Plea Agreement	06/13/2018
D 1	4	3	30-31-23(A)	Possession of Marijuana or Synthetic Cannabinoids (1-8 oz.)	M	06/14/2017		Not Guilty	Dismissed by Prosecutor Per Plea Agreement	06/13/2018

HEARINGS FOR THIS CASE					
HEARING DATE	HEARING TIME	HEARING TYPE	HEARING JUDGE	COURT	COURT ROOM
05/25/2018	1:15 PM	Docket Call	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)

03/27/2018	8:15 AM	Docket Call	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)
12/28/2017	8:30 AM	Docket Call	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)
12/14/2017	8:30 AM	Pre-Trial Hearing	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)
12/14/2017	8:30 AM	Motion Hearing	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)
10/23/2017	8:30 AM	Pre-Trial Hearing	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)
09/25/2017	8:30 AM	Pre-Trial Hearing	Jacquez, Richard M.	LAS CRUCES MAGISTRATE COURT	Dona Ana County Magistrate Court (CR2)

REGISTER OF ACTIONS ACTIVITY					
EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
07/10/2018	ORD: CONDITIONAL DISCHARGE				
06/13/2018	GUILTY/NO CONTEST PLEA PROCEEDING FILED		D	1	
06/13/2018	PLEA & DISPOSITION AGREEMENT FILED				
06/05/2018	Documentation Presented		P	1	
	Cancelation for Jury Selection.				
03/28/2018	NTC: OF NON-AVAILABILTY FILED				
03/27/2018	NTC: OF HEARING				
	Jury selection				
03/27/2018	NTC: OF HEARING				
	Docket call				
03/26/2018	MTN: Stipulated Continuance Motion				
01/12/2018	NTC: OF HEARING				
	Amended Docket Call				
12/28/2017	NTC: OF HEARING				
	Jury Selection				
12/28/2017	NTC: OF HEARING				
	Docket Call				
12/28/2017	WAIVER OF TIME LIMITS FILED				
12/19/2017	WITNESS LIST				
	Addendum to State's Witness List				
12/14/2017	NTC: OF HEARING				
	Jury Selection Hearing				
12/14/2017	NTC: OF HEARING				
	Docket Call				
12/14/2017	ORD: GRANTING				
	Order Sealing Addendum to State's Witness List				
11/21/2017	NTC: OF HEARING				
	Motion Hearing.				

11/20/2017	MTN: TO SEAL				
10/23/2017	NTC: OF HEARING				
	Pre Trial Hearing				
09/26/2017	WITNESS LIST		P	1	
09/25/2017	NTC: OF HEARING				
	ptc				
09/08/2017	MTN: FOR DISCOVERY/PRODUCTION FILED				
09/08/2017	DISCOVERY/DISCLOSURE PROVIDED				
09/08/2017	ENTRY OF APPEARANCE FILED		P	1	
08/28/2017	MTN: FOR DISCOVERY/PRODUCTION FILED				
08/09/2017	DEMAND FOR JURY TRIAL				
07/27/2017	NTC: OF HEARING				
	Pre Trial Hearing				
07/27/2017	ORD: SETTING CONDITIONS OF RELEASE				
	Personal Recognizance				
07/25/2017	Waiver of Arraignment Approved by Judge and Plea of Not Guilty		D	1	
07/24/2017	Waiver of Arraignment Submitted Pending Judicial Review		D	1	
07/24/2017	ENTRY OF APPEARANCE FILED		D	1	
07/14/2017	Summons Issued - Arraignment/First Appearance				
07/14/2017	STATEMENT OF PROBABLE CAUSE				
07/14/2017	OPN: CRIMINAL COMPLAINT FILED				

JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQUENCE #	ASSIGNMENT EVENT DESCRIPTION
07/14/2017	Jacquez, Richard M.	1	INITIAL ASSIGNMENT

Return

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LAS CRUCES, NEW MEX CO

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